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RECENT IMPORTANT DECISIONS

ARREST—RIGHT OF OFFICER TO KILL WHEN SERVING WARRANT FOR MISDEMEANOR.—Defendant had a warrant for the arrest of one White, charging him with being drunk and disorderly. When the defendant served the warrant, White advanced upon him with an open knife. Although the defendant had a chance to escape through an open door, he shot and wounded White. In the prosecution of defendant for shooting and wounding White, it was held that the defendant was justified in shooting him. *State v. Dunning* (N. C., 1919), 98 S. E. 530.

The rule of the common law was that if an officer under the authority of a warrant attempted to arrest a felon, he was justified in killing the felon if he fled, but the officer could not justify the killing of a misdemeanor who fled. And, irrespective of the question of self-defense, if either the felon or misdemeanor resisted arrest, the rule was that the officer was justified in opposing force to force, even though the death of the persons resisting be the consequence. *HALE'S PLEAS OF THE CROWN* (Small's 1st Am. Ed.) 489; *FAST, PLEAS OF THE CROWN* (1716), 298; 4 *COOLEY'S BLACKSTONE*, 4th Ed., Vol. 2, 1348; 1 *RUSSELL, CRIMES*, (9th Am. Ed.) 893; *CLARK, CRIMINAL LAW*, 161-2. This view is supported on grounds of public policy and in justice to the officer. And the common law rule is in general followed by the later cases. *State v. Smith*, (felon resisted), (1905), 127 Ia. 534; *Brown v. Weaver*, (misdemeanant fled), (1898), 76 Miss. 7; *Head v. Marten*, (misdemeanant fled) (1887), 85 Ky. 480; *Commonwealth v. Rhoads*, (misdemeanant fled), (1903), 23 Pa. Supr. Ct., 512; *Lynn v. People*, (misdemeanant resisted), (1897), 170 Ill. 527; *State v. Dierberger*, (misdemeanant resisted), (1888), 96 Mo. 666; *VOORHEES, LAW OF ARREST*, 156-8. Among the modern cases there are authorities, however, holding that the officer is not justified in killing a misdemeanor who resists arrest unless in self-defense. *Dilger v. Commonwealth*, (dicta), (1889), 88 Ky. 550; *Smith v. State* (1894), 59 Ark. 132; *Clements v. State* (1873), 50 Ala. 117; *Holland v. State* (1909), 162 Ala. 5. That this rule may put the officer in a precarious position is shown in the *Clements Case*, *supra*. There the party resisting arrest had made threats on the life of the officer, and, though there was a conflict in the evidence, it tended to prove that the deceased had cocked and half drawn a pistol. The court said that this was a preparation to resist, an attitude of defiance, not amounting to an assault, which did not justify the officer's killing the deceased.

BILLS AND NOTES—CONFLICTING DUE DATES.—Payee sued the maker's executors on an instrument substantially as follows: "December 12, 1891. One day after date I promise to pay to the order of V. A. Zimmerman seven thousand dollars with interest from date, to be paid at my death. JAMES R. ZIMMERMAN." Held, plaintiff nonsuit. The uncertainty in due dates was incurable and unexplained. *Zimmerman v. Zimmerman* (Pa., 1919), 106 Atl. 198.

The plaintiff had no evidence to explain the ambiguity between the two inconsistent due dates or to indicate which one was intended. But the courts,